

REMARKS

Reconsideration and allowance of the subject application are respectfully solicited.

Claims 2 through 18, 21 through 24, 26 through 28, 31 through 34, 36, 37, 40 through 48, 51 through 54, 56, and 57 are pending, with Claims 2, 9, 16, 17, 23, 24, 27, 33, 34, 40, 47, 53, and 54, being independent. Claims 2 through 16 and 40 through 46 were withdrawn from consideration. Claims 19, 20, 25, 29, 30, 35, 38, 39, 49, 50, 55, and 58 have been cancelled without prejudice. Claims 17, 18, 23, 24, 26, 27, 28, 33, 34, 36, 37, 47, 48, 53, 54, 56, and 57 have been amended.

Claims 17 through 39 and 47 through 58 were variously rejected under 35 U.S.C. § 103 over U.S. Patent Nos. 6,105,064 (Davis, et al.), 6,415,329 B1 (Gelman, et al.), 6,519,636 (Engel, et al.), 4,009,346 (Parker), and 5,699,369 (Guha). All rejections are respectfully traversed.

Claims 17, 27, and 47 variously recite, inter alia, throttling a user of the first apparatus by adjusting the transport level window size of the packet in accordance with (1) the level of service subscribed to by the user of the first apparatus and (2) bandwidth usage associated with the user of the first apparatus, and sending the so adjusted packet to the second apparatus (each of the first apparatus, gateway, and second apparatus having different IP addresses).

Claims 23, 35, and 55 variously recite, inter alia, determining the number of TCP connections that are open, and throttling a user of the first apparatus in accordance with (1) the determination of the number of TCP connections that are open

and (2) a level of service subscribed to by the user of the first apparatus (each of the first apparatus, the gateway, and the second apparatus having different IP addresses).

Claims 24, 34, and 54 variously recite, inter alia, throttling a user of the first apparatus in accordance with (1) a leaky bucket analysis of the user's throughput and (2) a level of service subscribed to by the user, wherein a packet on a TCP/IP connection between the first apparatus and the second apparatus is intercepted, and one of the following two conditions is satisfied: (1) throttling is effected by discarding the packet and (2) throttling is effected by modifying a field in the packet.

However, Applicants respectfully submit that none of Davis, et al., Gelman, et al., Engel, et al., Parker, and Guha, even in the proposed combinations, assuming, arguendo, that the documents could be combined, discloses or suggests at least the above-discussed claimed features as recited, inter alia, in Claims 17, 23, 24, 27, 33, 34, 47, 53, and 54. It is further respectfully submitted that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at the above-discussed claimed features.

Furthermore, Applicants are submitting herewith a Declaration Under 37 C.F.R. § 1.131 of Douglas M. Dillon and Vivek Gupta, which Declaration is respectfully to obviate the rejections based upon Engel, et al. and Gelman, et al. The former patent was filed on October 28, 1998, and the latter patent was filed on October 30, 1998, and claims priority to a March 6, 1998 provisional application. MPEP 715, 715.02, 715.04, 715.07.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

REQUEST FOR INTERVIEW

If any questions remain, Applicant respectfully requests that the Examiner contact Applicant's undersigned representative, Craig L. Plastrik, at (301) 601-7252 to schedule a personal interview. Favorable consideration in this regard is earnestly solicited.

REQUEST FOR ENTRY OF AMENDMENT

This Amendment After Final Rejection is an earnest attempt to advance prosecution and reduce the number of issues, and is believed to clearly place this application in condition for allowance. Furthermore, Applicants respectfully submit that a full appreciation of these amendments will not require undue time or effort given the Examiner's familiarity with this application. Moreover, this Amendment was not earlier presented because Applicants earnestly believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of this Amendment under 37 C.F.R. § 1.116 is respectfully requested.

PATENT
Attorney Docket No.: PD-970636A
Customer No.: 29158

CONCLUSION

Applicants submit that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicants' undersigned attorney may be reached at (301) 601-7252. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



2-28-06

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HUGHES NETWORK SYSTEMS, LLC
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Craig Plastrik

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